

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMAZON.COM, INC., *et al.*,

Defendants.

No. 2:23-cv-0932-JHC

MOTION OF
COMPUTER & COMMUNICATIONS
INDUSTRY ASSOCIATION,
NETCHOICE, LLC, AND CHAMBER OF
PROGRESS FOR LEAVE TO FILE
BRIEF *AMICI CURIAE* IN SUPPORT OF
DEFENDANTS' MOTIONS TO DISMISS

**NOTE ON MOTION CALENDAR:
NOVEMBER 10, 2023**

I. INTRODUCTION

COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION ("CCIA"), NETCHOICE, LLC ("NetChoice"), and CHAMBER OF PROGRESS hereby respectfully submit this Motion for Leave to File an *Amici Curiae* Brief in support of the Motion to Dismiss of Defendant Amazon.com, Inc. (Dkt. 84) and the Motion to Dismiss of Defendants Lindsay, Grandinetti, and Ghani (Dkt. 83). The *amici curiae* brief is attached as **Exhibit A** hereto. CCIA contacted Plaintiff's counsel for consent to this motion, which was refused.

II. IDENTITY AND INTEREST OF *AMICI CURIAE*

Movant CCIA is a non-stock, not-for-profit trade association organized under the laws of Virginia and operating pursuant to 26 U.S.C. § 501(c)(6). CCIA represents companies offering information and communications technology products and services. Defendant

1 Amazon.com, Inc. (“Amazon”) is one of CCIA’s members. The full list of CCIA members is
 2 available at www.ccianet.org/members. For more than 50 years, CCIA has promoted open
 3 markets, open systems, and open networks. CCIA members employ more than 1.6 million
 4 workers, invest more than \$100 billion in research and development, and contribute trillions of
 5 dollars in productivity to the global economy. CCIA has a significant interest in this case,
 6 because many of its members, including but not limited to Amazon, employ arrangements by
 7 which consumers obtain ongoing, or subscribed, delivery of goods and services. These
 8 arrangements inure to the benefit of consumers in several respects, including convenience,
 9 efficiency, and decreased costs of service. In fact, CCIA is participating in the new rulemaking
 10 that the Federal Trade Commission (“FTC”) commenced shortly before initiating this lawsuit:
 11 the agency has sought comment on bolstering existing federal rules that govern subscription
 arrangements.¹

12 Movant NetChoice is a national trade association of online businesses that share the goal
 13 of promoting free enterprise and free expression on the internet. NetChoice’s members operate
 14 a variety of popular websites, apps, and online services, including Meta, YouTube, and Etsy.
 15 NetChoice’s guiding principles are promoting consumer choice, continuing the successful policy
 16 of “light-touch” internet regulation, and fostering online competition to provide consumers with
 17 many choices. Defendant Amazon is a member of NetChoice. The full list of NetChoice’s
 members is available at <https://netchoice.org/about/#association-members>.

18 Movant Chamber of Progress is a tech-industry coalition devoted to a progressive society
 19 economy, workforce, and consumer climate. Chamber of Progress backs public policies that
 20 build a fairer, more inclusive country in which the tech industry operates responsibly and fairly,
 21 and in which all people benefit from technological leaps. Chamber of Progress seeks to protect
 22 internet freedom and free speech, to promote innovation and economic growth, and to empower

23 ¹ *Negative Option Rule*, 88 Fed. Reg. 24716 (Apr. 24, 2023)(to be codified at 16 CFR Part 425).
 24

1 technology customers and users. A list of Chamber of Progress' partners is available at
 2 <https://progresschamber.org/partners/>.

3 All Movants work to preserve a competitive, accessible, and vibrant internet ecosystem.
 4 As shown above, CCIA, NetChoice, and Chamber of Progress have particular expertise that can
 5 assist the Court in its review of the Motions to Dismiss.

6 III. GROUNDS FOR GRANTING THE MOTION

7 The "classic role" of an *amicus curiae* is to assist a court in a case of public interest by
 8 "supplementing the efforts of counsel, and drawing the court's attention to law that escaped
 9 consideration." *Miller-Wohl Co. v. Comm'r of Lab. & Indus., State of Mont.*, 694 F.2d 203, 204
 10 (9th Cir. 1982). "An amicus brief should normally be allowed when ... the amicus has unique
 11 information or perspective that can help the court beyond the help that the lawyers for the parties
 12 are able to provide." *Ryan v. Commodity Futures Trading Comm'n*, 125 F.3d 1062, 1064 (7th
 Cir. 1997).

13 The Court should permit Movants to file the attached brief *amici curiae*. CCIA,
 14 NetChoice, and Chamber of Progress have significant expertise in the issues of competition and
 15 consumer protection as applied to digital services and the provision of online shopping services.
 16 This expertise enables Movants to provide exactly the type of "unique information [and]
 perspective," 125 F.3d at 1064, that *amicus* briefs are intended to supply.

17 IV. CONCLUSION

18 For the reasons set forth above, Movants CCIA, NetChoice, and Chamber of Progress
 19 respectfully request the Court grant them leave to file the *amici curiae* brief attached hereto as
 20 **Exhibit A.**

21 DATED this 25th day of October 2023.

22 I certify that this motion contains 690 words, in compliance with LCR 7(e)(2).

23 By: /s/ Duncan C. Turner
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*Application for Admission *Pro Hac Vice*
Pending

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of October, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Yonten Dorjee
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